

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ELIJIO MONROY,

Defendant-Appellant.

UNPUBLISHED

March 1, 2002

No. 228562

Ingham Circuit Court

LC No. 99-075250-FH

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction on two counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a) and (b). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's convictions arose out of the long-term sexual abuse of his stepdaughter, beginning in 1994 and ending in 1999. Because the first count concerned an offense that took place prior to January 1, 1999, the court used the judicially adopted sentencing guidelines, which produced a range of 180 to 360 months. The second count concerned an offense that occurred after January 1, 1999, and the statutory guidelines were used, producing a range of 108 to 180 months. Defendant was sentenced to twenty to thirty-five years' imprisonment on the first count and fifteen to thirty years' on the second count. Both sentences were within the respective guidelines. On appeal, defendant challenges the proportionality of the sentence on the first count only.

The legislative sentencing guidelines apply to crimes committed on or after January 1, 1999. MCL 769.34(2). These guidelines have no bearing on a sentence for a crime committed before their effective date. *People v Oliver*, 242 Mich App 92, 99; 617 NW2d 721 (2000).

The Legislature chose to make the judicial sentencing guidelines ineffective for crimes committed on or after January 1, 1999. MCL 769.34(1). The guidelines remain effective for crimes committed prior to that date. A sentence imposed within a judicial guidelines range is presumed to be proportionate. *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995). Where a sentence is within the guidelines range, an abuse of discretion is found only upon a showing of unusual circumstances, which make the sentence disproportionate. *Id.*

Although the judicial guidelines do not have the force of law, they continue to be useful as a vehicle to assist the trial judge to determine where a given defendant falls on the sentence continuum. *People v Mitchell*, 454 Mich 145, 177; 560 NW2d 600 (1997), habeas corpus gtd sub nom *Mitchell v Mason*, 60 F Supp 2d 655 (ED Mich, 1999), aff'd 257 F3d 554 (CA 6, 2001). The judicial guidelines provide a framework for the appellate court's inquiry into the question whether the sentence is disproportionate and hence an abuse of discretion. *Id.*, 178.

Defendant has failed to identify any unusual circumstances that would render his sentence disproportionate. *Piotrowski, supra*.

Affirmed.

/s/ Richard A. Bandstra
/s/ William B. Murphy
/s/ Christopher M. Murray